

Lanny Alan Sinkin
P. O. Box 944
Hilo, Hawai'i 96721
(808) 936-4428
lanny.sinkin@gmail.com
Lay representative for Temple of Lono

BOARD OF LAND AND NATURAL RESOURCES

FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation)	
District Use Permit (CDUP) (HA-3568 for) TEMPLE OF LONO MOTION TO
The Thirty Meter Telescope at the Mauna) SCHEDULE PENDING MOTIONS;
Kea Science Reserve, Kaohe Mauka,) COS
Hamakua District, Island of Hawai'i,)
TMK (3) 4-4-015:009)
_____)

TEMPLE OF LONO MOTION TO SCHEDULED PENDING MOTIONS

On October 3, 2016, the Hearing Officer set a schedule for pre-hearing matters to be resolved prior to the initiation of the contested case hearing now scheduled for October 18.¹

Among the matters addressed were motions ruled upon orally for which a written order has not been issued. The Hearing Officer adopted a process in which the prevailing party is to prepare a proposed order for that matter to which other parties will respond. The Hearing Officer will then issue a minute order on that matter, which will be subject to a motion to reconsider.

¹ The Temple of Lono is one of the parties lacking the financial resources to purchase transcripts. With the Hearing Officer refusing repeated requests to have the transcripts posted for party access, the Temple is forced to rely upon its notes without being able to provide citations or copies of the relevant transcript portion.

One matter the Hearing Officer did not address is pending motions that have not yet been scheduled for briefing.

The Temple herein moves the Hearing Officer to schedule those motions for briefing and decision.

This motion is supported by the accompanying memorandum.

Dated: October 6, 2016

_____/s/_____
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IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation)	
District Use Permit (CDUP) (HA-3568 for) TEMPLE OF LONO MEMORANDUM IN
The Thirty Meter Telescope at the Mauna) SUPPORT OF MOTION TO SCHEDULE
Kea Science Reserve, Kahohe Mauka,) PENDING MOTIONS
Hamakua District, Island of Hawai'i,)
TMK (3) 4-4-015:009)
_____)

TEMPLE OF LONO MEMORANDUM IN SUPPORT OF
MOTION TO SCHEDULE PENDING MOTIONS

There are a number of motions pending for which there is no preliminary ruling from the Hearing Officer because the Hearing Officer has never scheduled the motions for briefing. Those motions include:

DOC-262: Motion to Recuse Hearing Officer²

DOC-263: Motion for Summary Judgment (Disqualification)

DOC-264: Motion for Summary Judgment (Desecration)

DOC-286: Motion for Reasoned Explanations and Extension of Time

These motions are substantive and, in the case of DOC-263 and DOC-264, are potentially dispositive of this case.

² The Temple filed its Motion to Recuse Hearing Officer on September 17, 2016. The Hearing Officer has ignored the filing of that motion and continued to make rulings, e.g. setting the schedule in a manner prejudicial to parties opposing the permit application.

The failure of the Hearing Officer to schedule these motions for briefing is a denial of the Temple's Due Process rights and a disservice to all parties, as the granting of the potentially dispositive motions would relieve all parties from the time and expense demands of continuing this proceeding.

Dated: October 6, 2016

_____/s/_____
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